

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RICHARD VACCARIELLO on behalf of  
himself and all others similarly situated,

Plaintiff,

vs.

XM SATELLITE RADIO INC.,

Defendant.

08 Civ 5336 (CS)(GAY)

**CLASS ACTION**

Oral Argument Requested

**NOTICE OF PLAINTIFF'S MOTION FOR  
CLASS CERTIFICATION**

PLEASE TAKE NOTICE that upon the Memorandum of Law in Support of Plaintiff's Motion for Class Certification, the Declaration of Natalie M. Mackiel in Support of Plaintiff's Motion for Class Certification, dated August 18, 2010, the exhibits attached thereto (to be filed upon completion of the briefing of the entire motion, pursuant to Individual Practice Rule II.B. of Magistrate Judge Yanthis), and all prior proceedings in this action, the undersigned counsel for Plaintiff Richard Vaccariello ("Plaintiff," "Vaccariello") will move this Court for an Order certifying this action as a class action on behalf of: All residents of the State of New York who subscribed to XM Satellite radio service and have had their service plan automatically renewed at any time since June 11, 2005 (the "Class"). Pursuant to the Joint Scheduling Order agreed upon by the parties, and ordered by this Court on June 25, 2010, Defendant shall serve its opposition papers no later than 37 days after the service of Plaintiff's motion, and Plaintiff shall file any reply papers no later than 30 days thereafter.

Dated: August 18, 2010  
New York, New York

Respectfully Submitted,

WOLF POPPER LLP



Lester L. Levy  
Michele F. Raphael  
Natalie M. Mackiel  
Wolf Popper LLP  
845 Third Ave, 12<sup>th</sup> Floor  
New York, New York 10022  
T: 212.759.4600  
F: 212.486.2093  
Email: [llevy@wolfpopper.com](mailto:llevy@wolfpopper.com)

*Attorneys for Plaintiff and the  
Proposed Class*